



DEPARTMENT OF ENERGY

Western Area Power Administration

Notice of Final 2025 Olmsted Power Marketing Plan

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Final 2025 Olmsted Power Marketing Plan.

SUMMARY: Western Area Power Administration (WAPA), a Federal Power Marketing Administration of the Department of Energy (DOE), announces its Final 2025 Olmsted Power Marketing Plan (Marketing Plan) for the Colorado River Storage Project (CRSP) Management Center (MC). On September 30, 2024, all of Olmsted Power Plant Replacement Project (Olmsted Project) energy sales contracts (Contracts) will expire. This notice responds to comments received on the Proposed 2025 Olmsted Power Marketing Plan (Proposed Plan) published in the *Federal Register* June 1, 2022, and sets forth the Marketing Plan. The Marketing Plan specifies the terms and conditions under which WAPA will market energy from the Olmsted Project beginning October 1, 2024, through September 30, 2054. This Marketing Plan supersedes the previous Olmsted Project marketing plan. WAPA will offer new Contracts for the sale of energy to existing customers (Customers) as more fully described in the Marketing Plan. The Marketing Plan also establishes one resource pool (2034 Resource Pool) of up to 3 percent of the marketable resource under contract at the time of reallocation to be available for eligible new preference entities or Customers. The 2034 Resource Pool will be under Contract by October 1, 2034. WAPA will publish the application procedures for the 2034 Resource Pool in a separate *Federal Register* notice.

DATES: The Marketing Plan will become applicable [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] in order to make power allocations and complete the other processes necessary to begin providing services on October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney G. Bailey, CRSP Manager, CRSP MC, Western Area Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401, by email at *Olmsted-Marketing@wapa.gov*, by telephone at 970-252-3000, or by fax at 970-240-6282. Information on development of the Marketing Plan can be found at <https://www.wapa.gov/regions/CRSP/PowerMarketing/Pages/power-marketing.aspx>.

SUPPLEMENTARY INFORMATION:

Background

The Olmsted Project is located at the mouth of Provo Canyon in northern Utah and is part of the Central Utah Project, a participating project of CRSP. In 1987, the United States Department of the Interior, Bureau of Reclamation (Reclamation) secured ownership of the Olmsted Flowline, located in northern Utah, from PacifiCorp (formerly known as Utah Power and Light), and the associated water rights as an essential part of the Central Utah Project. In a related 1990 Settlement Agreement, the Olmsted generation facilities were acquired in condemnation proceedings by the United States to better secure and develop water rights for the Central Utah Project. As part of the condemnation proceedings, PacifiCorp continued generating power at Olmsted until September 22, 2015. Power generation at the site ceased on that date, and Reclamation assumed responsibility for operating the Olmsted Project.

A comprehensive evaluation of the existing 100-year-old Olmsted facilities determined it had greatly exceeded its operational life, and a replacement hydroelectric facility was necessary. On February 4, 2015, an Implementation Agreement (Agreement) for the Olmsted Project was signed by the Central Utah Water Conservancy District (District), Reclamation, DOE, and WAPA (Participants) to set forth the responsibilities of the participants and how the Olmsted Project would be funded. During the second quarter of calendar year 2016, pursuant to the Agreement, the District began constructing the 12-megawatt, \$42 million replacement hydroelectric facility and new power transmission line to the nearby Provo Power system. Olmsted Powerplant construction was completed in July 2018 and started commercial power

production in October 2018. The Olmsted Project is a Federal facility operated and maintained by the District in connection with its Central Utah Project operations. The Olmsted Project is a “run-of-the-river” plant producing power only when water demands from downstream users necessitate water deliveries.

The Marketing Plan, herein, describes how CRSP Management Center will market Federal energy from the Olmsted Project beginning October 1, 2024, through September 30, 2054. As part of the Marketing Plan, WAPA will establish one 2034 Resource Pool of 3 percent of the net marketable resource (minus the District’s allocation) under contract at the time of each reallocation to be available for eligible new preference entities and Customers. The 2034 Resource Pool will be allocated and under contract by October 1, 2034. WAPA will publish the application procedures for the 2034 Resource Pool in a separate *Federal Register* notice sometime in the 2030 calendar year timeframe. WAPA, at its discretion, will allocate a percentage of the 2034 Resource Pool to selected new applicant(s) that meet the Eligibility Criteria defined in the Marketing Plan, herein. This allocation percentage will be multiplied by the 2034 Resource Pool percentage to determine an applicant’s percentage of the resource pool. WAPA will publish a notice in the *Federal Register* once those proposed allocations have been determined (Proposed Allocations). The public will have an opportunity to comment on the Proposed Allocations. After reviewing the comments, WAPA will publish a notice of Proposed Allocations in the *Federal Register*. Once the final 2034 Resource Pool allocations have been published, WAPA will work with Customers to amend the existing Contracts and execute Contracts with any new allottees pursuant to the General Contract Principles as described in this notice.

Response to Comments on the Proposed 2025 Olmsted Power Marketing Plan

During the public consultation and comment period, WAPA received four letters commenting on the Proposed Plan. In addition, WAPA received two comments during the June 28, 2022, Public Comment Forum. In preparing the Marketing Plan, WAPA reviewed and considered all

comments received during the public consultation and comment period. The following is a summary of the comments received during the consultation and comment period, and WAPA's responses to those comments. Comments are grouped by subject and paraphrased for brevity when it was possible to do so without affecting the meaning of the statements.

A. Marketing Area Responses

Comment: One commenter stated the District will likely operate features within both the Provo River Delta Restoration Project (PRDRP) and the June Sucker Recovery Implementation Program (JSRIP). The features will make up part of the growing new loads in operations for which the District is responsible (see agreement dated November 24, 2020 between the District and the Utah Reclamation Mitigation and Conservation Commission (URMCC) showing current scope of work related to some of these efforts).

Response: WAPA appreciates this comment and acknowledges the broad authorities the District has under Central Utah Project Completion Act (CUPCA). Therefore, if the District is required to serve electrical loads resulting from implementation of CUPCA that are beyond the marketing area boundaries defined in this notice, those loads may be service with Olmsted Project energy as long as the electrical loads are 100 percent CUPCA related.

Comment: One commenter stated that WAPA did include Juab County in the Proposed 2025 Marketing Plan. But the Proposed 2025 Marketing Plan continues to exclude Duchesne and Uintah counties that are also within similar proximity to the Olmsted Project. Furthermore, several counties in the current marketing plan did not and do not contribute significant funding for the Olmsted Project.

Response: During the previous marketing plan public process in 2016, WAPA unintentionally excluded Juab County in the proposed marketing plan *Federal Register* notice (81 FR 87035) published on December 02, 2016, and the final Olmsted Marketing

Plan published in the *Federal Register notice* (82 FR 47201) on October 11, 2017.

WAPA is correcting that error by including Juab County in the final 2025 Olmsted Power Marketing Plan. However, because of the small amount of energy available from the Olmsted Project, the marketing area will continue to be limited to the Utah counties in the vicinity of the powerplant to ensure that entities receiving an allocation would benefit from the energy while at the same time creating a marketing area sufficiently large enough to ensure wide-spread use of the Federal resource.

Comment: One commenter emphasized the importance of the District in supporting the Olmsted Project by highlighting that the District used property taxes from residents of the 8-county area that contributed almost 50 percent of the funding for construction of the Olmsted Project. The commenter further emphasized that the District is responsible for the long-term operation, maintenance and replacement of the project.

Response: Thank you for this comment. WAPA recognizes the significant contributions of the District and the tax payers in the surrounding 8-county area, and as such the District will continue to receive “priority” status for an allocation of power under the Marketing Plan.

Comment: Two commenters stated that WAPA needs to adhere to the basic definition and logic of describing the marketing area as “close proximity to the Olmsted facility.” They recommended that the marketing area be defined as the two counties within the Provo River drainage – Utah and Wasatch counties.

Response: Other than adding Juab County to this Marketing Plan, WAPA will not be adding or subtracting any other counties.

Comment: One commenter stated that they acknowledge the benefit of adding Juab County to the Proposed 2025 Marketing Plan. It is a good step in the redrawing the boundary lines by similar proximity to the Olmsted Project.

Response: Thank you for this comment.

B. Resource Extensions and 2034 Resource Pool Allocations Responses

Comment: One commenter stated they appreciate WAPA providing the District with “priority” status due to its role in construction, financing, operating, maintaining, and replacing responsibilities with the Olmsted Project.

Response: Thank you for this comment.

Comment: One commenter believed the District’s current allocation falls proportionately short of the significant contributions they have made to the Olmsted Project.

Response: WAPA appreciates this comment and plans to continue to give “priority” status to the District. Furthermore, WAPA encourages the District to apply for an additional allocation during the 2034 Resource Pool Allocation process.

Comment: Three commenters stated that any loads of facilities directly required by the CUPCA, including those for the “June Sucker” fish restoration efforts, be met first from the CRSP Project Use power and not from the Olmsted Project resources. The Commenters cited CUPCA 102-575 and Chapter 5 of the Power Appendix of the October 2004 Supplement to the 1988 Definite Plan Report for the Bonneville Unit to support this position.

Response: WAPA concurs with these comments. Any power needed for the “June Sucker” fish restoration efforts will be provided from CRSP Project Use energy allocations.

Comment: One commenter stated the District is authorized under CUPCA to assist the Utah Reclamation Mitigation and Conservation Commission and the U.S. Department of Interior to plan, design, construct and operate features of the CUP, including significant roles and responsibilities of the PRDRP and the JSRIP.

Response: WAPA appreciates this comment and acknowledges the broad authorities the District has under CUPCA.

Comment: One commenter stated that if WAPA plans to use the Resource Pool from

Olmsted instead of CRSP for the electricity needs of the “June Sucker” fish, that WAPA should consider increasing their allocation by the entire 5 percent set aside for the Resource Pool.

Response: WAPA has determined that CRSP power will be used for any electricity loads required by the “June Sucker” fish restoration efforts.

Comment: Several commenters expressed concerns that current allocations from the Olmsted Project only supply energy to partially meet current loads within their respective service areas. Furthermore, these loads will continue to grow substantially over the next 10-years within the counties covered by the Marketing Plan.

Response: WAPA appreciates these comments and understands the challenges of meeting load-growth with diminishing amounts of power supply. In response to these concerns, WAPA will not change current allocations for Customers over the next 10-years; and thereafter withdraw only 3 percent for the 2034 Resource Pool beginning October 1, 2034.

Comment: One commenter stated they value the Olmsted Project allocation of renewable, clean energy operated by the District. The Contracts with WAPA for Federal power are critical in serving the electric consumers in their power communities.

Response: Thank you for this comment.

Comment: One commenter stated they support WAPA’s proposal to provide 95 percent of Olmsted Project available energy to existing Customers; and that the 5 percent set aside (Resource Pool) for new customers will not impact the District (diminish their current allocation).

Response: WAPA appreciates this comment. WAPA plans to reduce 2034 Resource Pool from 5 percent to 3 percent, which generally aligns with other marketing plans for other WAPA projects and regions.

Comment: One commenter stated the Olmsted Project contracts should be renewed and

continued beyond 2024 at the same allocation percentages because they have concerns about any changes to the project or allocations and how that could influence future allocations of Federal energy.

Response: WAPA will extend the Olmsted Project resource to Customers with no changes to existing allocations through September 1, 2034. At which time, all existing contracts will be modified to reflect a 3 percent 2034 Resource Pool for new eligible preference entities and existing Customers.

C. Eligible Applicants Responses

Comment: One commenter stated if new allocations are to be given, they should be to those with significant load growth

Response: WAPA recognizes that meeting load growth is a concern for many utilities. WAPA allocates power to eligible preference entities based on current loads rather than anticipated loads. Further, existing Customers will have an opportunity to apply for a percentage of the 2034 Resource Pool.

D. Preference Entities Responses

Comment: No comments received.

Response: No responses provided.

E. Ready, Willing, and Able Responses

Comment: One commenter stated that based on historical compliance with the terms and conditions of the Contract, they are ready, willing, and able to accept a new allocation of Olmsted Project energy.

Response: Thank you for this comment.

F. Contract Obligations Responses

Comment: No comments received.

Response: No responses provided.

G. Contract Term Responses

Comment: One commenter requested a longer contract term. They believed this will be easier on WAPA and the District for planning and allocating costs for major maintenance work and overhaul repairs.

Response: WAPA appreciates this comment and agrees a longer contract term will be more effective and efficient for everyone. WAPA is lengthening the contract term to a fixed 30-year period.

H. Delivery Point Responses

Comment: No comments received.

Response: No responses provided.

I. Transmission Beyond Delivery Point Responses

Comment: No comments received.

Response: No responses provided.

J. Regional Transmission Organization Responses

Comment: No comments received.

Response: No responses provided.

K. Rates and Payment Responses

Comment: Two commenters stated they support the approach that Customers with an allocation will receive a share of the energy and will annually pay a proportionate share of the Olmsted Project operation, maintenance and replacement expenses as defined in the Project Implementation Agreement No. WS-15-100, dated February 5, 2015.

Response: At this time, WAPA plans to continue with the same methodology, which may be followed through a separate public process

(<https://www.wapa.gov/regions/CRSP/rates/Documents/Olmsted%20WAPA-205%20Customer%20Brochure%20Proposal%20FINAL.pdf>) under Rate Order No. WAPA-205 (<https://www.wapa.gov/regions/CRSP/rates/Pages/rate-order-205.aspx>).

L. General Comments Responses

Comment: Three commenters stated the continued sustainable operation, maintenance, and replacement of the Olmsted Project is critical to maintaining water rights for CUP.

Response: Thank you for this comment.

Comment: One commenter stated they value their long-standing working relationship with WAPA in managing the Olmsted Project facilities and WAPA's efforts to solve challenges associated with drought and meeting the growth for energy in the West.

Response: Thank you for this comment.

Summary of Major Revisions to the Final Marketing Plan from the Proposed Plan

WAPA revised the Marketing Plan, in part, to address comments received during the public consultation and comment period. The revisions are summarized as follows:

- Marketing Plan Section A: Marketing Area clarifying language added that allows the District to serve loads that are features of PRDRP and JSRIP beyond the Marketing Area boundary as long as the electrical loads are 100 percent CUPCA related.
- Marketing Plan Section B: Resource Extension and 2034 Resource Pool Allocations clarifying language added including inserting "2034" into the section title, delaying the Resource Pool until October 1, 2034, decreasing the 2034 Resource Pool from 5 percent to 3 percent, and no Olmsted Project resources will be used as Project Use power for "June Sucker" fish restoration efforts required by the Central Utah Project Completion Act.
- Resource Extension and 2034 Resource Pool changed from 5 percent to 3 percent; electrical loads associated with restoration of the "June Sucker" fish will be provided energy from CRSP allocation of Project Use power - no Olmsted Project resources will be used; and additional clarifying language added to this section.
- Marketing Plan Section F: Contract Obligations clarifying language added including the addition of language pertaining to decreasing or increasing a Customer's allocation upon 180 days' notice due to a 2034 Resource Pool; new language allowing Net Billing and Bill Crediting at WAPA's discretion.

- Marketing Plan Section F: Contract Obligations includes additional clarifying language.
- Marketing Plan Section G: Contract Term changed from a 10-year term with two automatic 5-year renewals to a fixed at 30-years for existing customers, October 1, 2024, to September 30, 2054; and 20 years for any new customers resulting from the 2034 Resource Pool, October 1, 2034, to September 30, 2054.
- Marketing Plan Section J: Regional Transmission Organization and other organized market activities sentence added “. . . with the understanding that WAPA holds the unilateral right to ultimately agree or not agree to what those potential mitigation efforts might be and each Customer is ultimately responsible for all transmission costs associated with their allocation.”
- Marketing Plan added three new sections:
 - The addition of Section I: Acronyms and Definitions
 - Added Section III: Changes Due to Drought
 - Added Section IV: Call for 2034 Resource Pool Applications for Power

2025 Olmsted Power Marketing Plan and Marketing Criteria

The Marketing Plan addresses: (1) The available Olmsted Project energy to be marketed after September 30, 2024, which is the termination date for all existing Olmsted Project Contracts; (2) the general terms and conditions under which the energy will be marketed October 1, 2024, through September 30, 2054, to Customers and new allottee(s); (3) criteria to determine who will be eligible to receive allocations from the 2034 Resource Pools.

WAPA will continue a collaborative process in implementing the terms set forth in this Marketing Plan.

Within broad statutory guidelines, WAPA has discretion as to whom and under what terms it will contract for the sale of Federal power, as long as preference is accorded to statutorily defined public bodies. WAPA markets power in a manner that will encourage the most widespread use at the lowest possible rates consistent with sound business principles. All products and services provided under this Marketing Plan will be subject to the operational

requirements and constraints of the Olmsted Project, transmission availability, and Federal authorities.

I. Acronyms and Definitions

As used herein, the following acronyms and terms, whether singular or plural, capitalized or not capitalized, shall have the following meanings:

Allocation: An offer from WAPA to sell Federal energy for a certain period of time, which will convert to a right to purchase after execution of a contract.

Allocation Criteria: Criteria used to determine the amount of energy allocated to allottees.

Allottee: A preference entity receiving an allocation.

Base Resource: A percentage of the annual net marketable energy output of the Olmsted Project rather than fixed quantities of energy as determined by WAPA to be available for marketing after meeting any adjustments for operation and maintenance power requirements.

Bill Crediting: Contractual provisions whereby payments due to WAPA by a Customer shall be paid by a Customer to a third party when so directed by WAPA.

CRSP: Colorado River Storage Project is a DOI project designed to oversee the development of water resources in the Upper Colorado River Basin. The project provides hydroelectric power, flood control and water storage for participating states along the upper portion of the Colorado River and its major tributaries.

Contract Principles: Provisions of the Contracts, including WAPA's General

Power Contract Provisions.

CRSP Management Center: Is one of five regional offices within WAPA responsible for marketing power from CRSP hydrogeneration facilities, of which the Olmsted Project is a feature.

Customer: An entity with a contract and receiving electric service from the Olmsted Project.

Electric Utility Status: Means a Preference entity that has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from WAPA on a wholesale basis.

Eligibility Criteria: Conditions that must be met to qualify for an allocation.

Energy: Measured in terms of the work it is capable of doing over a period of time; electric energy is usually measured in kilowatt-hours (kWh) or megawatt-hours (MWh).

GPCP: The General Power Contract Provisions are standard terms and conditions included in WAPA's Contracts.

Integrated Resource Plan (IRP): A process and framework within which the costs and benefits of both demand and supply-side resources are evaluated to develop the least total cost mix of utility resource options.

Kilowatt (kW): A unit measuring the rate of production of electricity; 1 kilowatt equals 1,000 watts.

Marketing Area: The counties of Davis, Juab, Morgan, Salt Lake, Summit, Utah, Weber, and Wasatch, within and to the exterior of these county boundaries as established through an administrative or political subdivision of a state Utah.

<u>Marketing Plan:</u>	WAPA’s final 2025 Power Marketing Plan for the Olmsted Project.
<u>Megawatt (MW):</u>	A unit measuring the rate of production of electricity; 1 megawatt equals 1 million watts.
<u>Net Billing:</u>	Payments due to WAPA by a customer may be offset against payments due to that customer by WAPA.
<u>Olmsted Project:</u>	A 12-megawatt replacement hydroelectricity facility located at the mouth of Provo Canyon in northern Utah, and a power transmission line to the Provo City power system. The Olmsted Project is part of the Central Utah Project – a participating project of CRSP, and is administered under the February 4, 2015, Implementation Agreement signed by the Central Utah Water Conservancy District (District), United States Department of Interior, Bureau of Reclamation (DOI), DOE and WAPA.
<u>Power:</u>	Capacity and energy.
<u>Preference:</u>	The requirements of Reclamation Law that provide for preference in the sale of Federal power be given to certain entities such as governments (state, Federal and Native American), municipalities and other corporations or agencies, and cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 (See, <i>e.g.</i> , Reclamation Project Act of 1939, Section 9(c), 43 U.S.C. 485h(c)). A Native American applicant must be an “Indian Tribe” as that term is defined in section 4 of the Indian Self

Determination and Education Assistance Act, as amended (25 U.S.C. 5304(e)).

Priority Status:

Priority Status is a term used with the District in this Marketing Plan to recognize their significant contributions toward constructing, financing, operating, maintaining, and replacing the Olmsted Project. Priority Status protects the District from an allocation reduction due to the 2034 Resource Pool.

Reclamation Law:

Refers to a series of Federal laws with a lineage dating back to the late 1800s. Viewed as a whole, those laws create the framework under which WAPA markets power.

2034 Resource Pool:

A pool of energy created from available marketable Olmsted Project power resources allocated to Customers.

WAPA:

Western Area Power Administration, United States Department of Energy, a Federal Power Marketing Administration responsible for marketing and transmitting Federal power pursuant to Reclamation Law and DOE Organization Act (42 U.S.C. 7101, *et seq.*).

II. Olmsted Power Marketing Plan, General Criteria and Contract Principles

The following criteria and contract principles apply to all Contracts executed under the Marketing Plan:

A. Marketing Area

As defined in Section I., herein, the Marketing Area includes the counties of Davis, Juab, Morgan, Salt Lake, Summit, Utah, Weber, and Wasatch, within and to the exterior of these county boundaries as established through an administrative or political subdivision of a state Utah. However, the District may serve loads that are features of

PRDRP and JSRIP beyond this Marketing Area as long as the electrical loads are 100 percent CUPCA related.

B. Resource Extensions and 2034 Resource Pool Allocations

1. Extension for Existing Customers

Starting October 1, 2024, WAPA will execute new Contracts that provide the net marketable Olmsted Project energy resources to existing Customers through September 30, 2034. If existing Customer(s) surrenders some or all of its allocation prior to October 1, 2024, that percentage of the total Base Resource will be returned to the remaining existing Customers on a *pro rata* basis.

2. 2034 Pool Resources and Amount

The 2034 Resource Pool will be created by reducing existing Customers' allocations by up to 3 percent, with the exception of the District that will not see an allocation reduction in consideration for its role in constructing and operating the Olmsted Project. The annual Resource Pool available from October 1, 2034, through September 30, 2054, is estimated at 517,650 kWh. This is an approximate figure based on the most recent 3-year average of net marketable Olmsted Project generation of 24,650,000 minus the District's 30 percent allocation times 3 percent. Approximately 97 percent of the available net marketable Olmsted Project energy resources will remain with existing Customers.

3. 2034 Resource Pool Allocations

WAPA will, at its discretion, allocate the 2034 Resource Pool to new applicants that meet the Eligibility and Allocation Criteria. WAPA will take into consideration all existing Federal hydropower allocations an applicant is currently receiving when determining each new 2034 Resource Pool allocation. Allocations from the 2034 Resource Pool will be determined through the processes described in in this Marketing Plan.

4. 2034 Resource Pool Allocation Criteria

The following Allocation Criteria will apply to all applicants seeking a 2034 Resource Pool Allocation under the Marketing Plan:

- a. Allocations will be made in amounts as determined solely by WAPA in the exercise of its discretion under Reclamation Law and considered to be in the best interest of the U.S. Government.
- b. Allocations will be based on all existing Federal hydropower allocations an applicant is currently receiving and on the applicant's load during the calendar year prior to the Call for Applications or the amount requested, whichever is less.
- c. An allottee will execute a Contract with WAPA and comply with all conditions in that Contract.
- d. Eligible Native American applicants will receive consideration for an allocation consistent with this Marketing Plan and 25 U.S.C. 3505.

C. Eligible Applicants

WAPA will apply the following Eligibility Criteria to all applicants seeking a 2034 Resource Pool Allocation under the Marketing Plan:

1. Applicants must meet the preference requirements under Section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)(1)), as amended and supplemented.
2. Applicants must be located within the Marketing Area.
3. Applicants that require energy for their own use must be ready, willing, and able to receive and use Federal energy by October 1, 2034.
4. Applicants that provide retail electric service must be ready, willing, and able to receive and use the Federal energy to provide electric service to their customers, not for resale to others, by October 1, 2034.

5. Applicants must submit an application in response to the Call for 2034 Resource Pool Applications by the specified deadline. WAPA will publish a notice for the Call for 2034 Resource Pool Applications in the *Federal Register* at a future date. WAPA anticipates it will issue the notice sometime around calendar year 2030.
6. Native American applicants must be a Native American tribe as defined in the Indian Self Determination Act of 1975 (25 U.S.C. 5304).
7. WAPA generally will not allocate power to applicants with loads of less than 1 MW; however, allocations to applicants with loads of at least 500 kW may be considered, provided the loads can be aggregated with other allottees' loads to schedule and deliver to a minimum load of 1 MW.

D. Preference Entities

As defined herein, include municipalities, rural electric cooperatives, and political subdivisions including irrigation or other districts, other governmental organizations, nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, and Federally recognized Native American tribes are all preference entities in accordance with section 9(c) of the Reclamation Project Act of 1939, as amended (43 U.S.C. 485h(c)). A Native American applicant must be an "Indian Tribe" as that term is defined in section 4 of the Indian Self Determination and Education Assistance Act, as amended (25 U.S.C. 5304(e)).

E. Ready, Willing, and Able

Eligible applicants must be ready, willing, and able to receive and distribute or consume energy from WAPA by October 1, 2024. "Ready, willing, and able" means the applicant has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service, and its power supply contracts with third parties to permit the delivery of WAPA's power.

F. Contract Obligations

Eligible applicants that receive an allocation must execute Contracts within 6 months of receiving a contract offer from WAPA, unless WAPA agrees otherwise in writing. Furthermore, applicants must comply with all terms and conditions stated within that contract, including:

1. Clauses specifying criteria to receive electric service from WAPA.
2. WAPA's standard provisions, policies and procedures for Contracts, Integrated Resource Plans, General Power Contract Provisions, and creditworthiness as determined by WAPA.
3. Clause that allows WAPA to reduce or increase a Customer's allocation percentage, upon 180 days' notice, if WAPA determines that (1) the Customer is not using this power to serve its own loads; (2) the allocation amounts are consistently greater than the Customer's maximum load; or (3) the Customer is allotted a percentage of allocation returned to WAPA from another Customer.
4. Clauses concerning any energy not under Contract may be allocated at any time, at WAPA's sole discretion, or sold as deemed appropriate by WAPA, consistent with Federal law.
5. Clause providing for alternative funding arrangements, including Net Billing, Bill Crediting, Reimbursable Financing, and advance payment.
6. All power supplied by WAPA will be delivered pursuant to a scheduling agreement negotiated between WAPA and the Customers. Terms and conditions are subject to WAPA's final approval.
7. Clause stipulating that Customers will pay for their percentage of the Base Resource, pursuant to the formula rate described in Section K., herein. Customers must pay all applicable rates and charges in the manner and within the time prescribed in the Contract.

G. Contract Term

Contracts shall provide for WAPA to furnish electric service beginning October 1, 2024, through September 30, 2054. 2034 Resource Pool Contracts shall provide for WAPA to furnish electric service beginning October 1, 2034, through September 30, 2054.

H. Delivery Point

The Olmsted Project is electrically interconnected to the City of Provo, Utah, distribution and transmission facilities (Provo System), and delivery of the Olmsted Project allocation to each Customer will be where the 12.47-kV Provo System interconnects at PacifiCorp's Hale Substation.

I. Transmission Beyond Delivery Point

Any transmission beyond the delivery point at Hale Substation is the sole responsibility of each Customer. Eligible applicants that receive an allocation must have the necessary arrangements for transmission and/or distribution service in place by the first effective day of the contract.

J. Regional Transmission Organization

Should PacifiCorp, as the balancing authority operator where the Olmsted Project is interconnected, join a full electricity market (*e.g.*, Regional Transmission Organization and/or an Independent System Operator), and in joining that market create unintended delivery point/point of receipt financial impacts to the Olmsted Project, and/or other unintended financial impacts, such financial impacts will be included as part of the Olmsted Project operation expenses. WAPA will work with the Customers in good faith in an attempt to minimize financial impacts with the understanding that WAPA holds the unilateral right to ultimately agree or not agree to what those potential mitigation efforts might be and each Customer is ultimately responsible for all transmission costs associated with their allocation.

K. Rates and Payment

The Olmsted Project is a “take all, pay all” project (*i.e.*, the Olmsted Project annual revenue requirement is not dependent upon the amount of energy available each year). WAPA developed the Olmsted Project Formula Rate F-1, under Rate Order No. WAPA-177, published in the *Federal Register* on May 7, 2018 (83 FR 20065), that determines the annual energy charge to each Customer receiving an allocation. The new rate announced in a *Federal Register* notice published November 10, 2022, is being developed through a separate public process (<https://www.wapa.gov/regions/CRSP/rates/Documents/Olmsted%20WAPA-205%20Customer%20Brochure%20Proposal%20FINAL.pdf>) under Rate Order No. WAPA-205 (<https://www.wapa.gov/regions/CRSP/rates/Pages/rate-order-205.aspx>), which proposed to establish a new effective period of May 1, 2023, through April 30, 2028.

III. Changes Due to Drought

WAPA recognizes there have been, and continue to be, significant impacts caused from a persisting long-term drought in the Colorado River Basin, and changes in the electric utility industry. To address this concern, WAPA, in collaboration with its Customers, will include the ability to make changes in how the Federal resource is marketed if there is deemed a benefit to WAPA and its Customers. Any changes implemented would be done through negotiation and revision to individual Customer Contracts.

IV. Call for 2034 Resource Pool Applications for Power

Qualified preference entities wishing to purchase power from Olmsted Project from October 1, 2034, through September 30, 2054, will have the opportunity to submit a formal application to WAPA prior to October 1, 2034. Existing Customers will not need to submit an application unless they are seeking to increase their allocation. All applicants must submit applications using the Application Profile Data (APD) application form approved by the Office of Management and Budget. The Call for 2034 Resource Pool Applications will be set forth

through a separate *Federal Register* notice and public process commencing sometime after calendar year 2030.

Authorities

WAPA developed this Marketing Plan in accordance with its power marketing authorities pursuant to the following Acts of Congress: Reclamation Act of June 17, 1902 (Pub. L. 57-161) (32 Stat. 388), the Reclamation Project Act of August 4, 1939 (Pub. L. 76-260) (53 Stat. 1187), Colorado River Storage Project Act of April 11, 1956 (Pub. L. 84-485) (70 Stat. 105), Department of Energy Organization Act of August 4, 1977 (Pub. L. 95-91) (91 Stat. 565), Energy Policy Act of October 30, 1992 (Pub. L. 102-575) (106 Stat. 4600, 4605), as such acts may have been supplemented or amended.

Procedural Requirements

A. Review Under the National Environmental Policy Act (NEPA)

WAPA has determined that this proposed action fits within the categorical exclusion listed in appendix B to subpart D of 10 CFR part 1021 (B4.1 contracts, policies, and marketing and allocation plans for electric power). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment. A copy of the categorical exclusion determination is available on the CRSP website at:

<https://www.wapa.gov/regions/CRSP/environment/Pages/environment.aspx>.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, requires a Federal agency to perform a regulatory flexibility analysis whenever the agency is required by law to publish a general notice of proposed rulemaking for any proposed rule, unless the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, a “rule” does not include “a rule of particular applicability relating to rates [and] services...or to valuations, costs

or accounting, or practices relating to such rates [and] services...” 5 U.S.C. 601. WAPA has determined that this action relates to services offered by WAPA and, therefore, is not a rule within the purview of the RFA.

C. Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866. Accordingly, no clearance of this notice by the Office of Management and Budget is required.

D. Review Under Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*), WAPA has received approval from the Office of Management and Budget to collect applicant data, under OMB control number 1910-5136.

Signing Authority

This document of the Department of Energy was signed on March 3, 2023, by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on March 16, 2023.

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.f